

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1824 – SB 1848

February 2, 2016

**SUMMARY OF BILL:** Requires the Department of Commerce and Insurance's Division of Consumer Affairs to develop and implement a plan to receive and disseminate reports of scams, schemes, swindles, and other frauds that target adults on their website and to report by October 15, 2016, on its progress to the Chairs of the Health Committee of the House of Representatives and Health and Welfare Committee of the Senate.

Adds home care organizations to entities that are required to have a criminal background check completed prior to employing any person who will be in a position that involves providing direct care to a resident or patient. Requires any person who applies for employment in a position that involves providing direct care to a resident or patient in such a facility to consent to providing past work and personal references, agree to the release of information to determine if an individual has been convicted of a criminal offense in the State of Tennessee, supply a fingerprint sample and submit to a criminal history records check, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation, and release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

Requires the Executive Director of the Commission on Aging and Disability (TCAD) to establish a working group led by the Commission and includes the Division of Adult Protective Services of the Department of Human Services, the Department of Health, the District Attorneys General Conference, members of local law enforcement, and other state departments and agencies may be needed. The working group is to draft and develop a field guide to provide law enforcement with the specific statutes and other resources related to assisting in the prevention, investigation, and prosecution of elder and vulnerable adult abuse.

Requires the Executive Director of TCAD to establish and lead a multidisciplinary collaborative coalition of state agencies and departments involved in the prevention, investigation, and prosecution of elder and vulnerable adult abuse, neglect, and exploitation. Requires the coalition to develop and undertake strategies to increase communication with the public and state agencies, propose educational outreach, and promote the sharing of existing resources and information.

Requires the Commissioner of the Department of Human Services to establish within the Department an adult protective services working group, tasked to examine and explore the procedures and resources used by other states to investigate all allegations of financial exploitation. Requires the Commissioner to report to the General Assembly by January 15, 2017, a plan to improve its efficiency and a report concerning the department's capacity to investigate financial exploitation involving nongovernmental funds.

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Requires the District Attorneys General Conference (TDAGC) to review portions of the Tennessee Code Annotated related to prosecution of elder abuse, neglect, and exploitation and to report recommended changes by January 15, 2017.

Establishes the Tennessee Vulnerable Adult Coalition (TVAC) as an advisory entity. TVAC will be administratively attached to the TCAD and will bring public and private entities together to promote the collaboration necessary to prevent the abuse, neglect, and financial exploitation of elder and vulnerable adults.

## **ESTIMATED FISCAL IMPACT:**

**Increase State Revenue -- \$90,300/Recurring/TBI**

**Increase State Expenditures - \$4,300/One-Time/TBI  
\$44,400/Recurring/TBI  
\$56,600/Recurring/TennCare**

**Increase Federal Expenditures -- \$104,900/Recurring**

### **Assumptions:**

- The proposed legislation requires any person who applies for employment in a position that involves direct care to a resident or patient in a nursing home or a home care organization to consent to supplying a fingerprint sample for purposes of a TBI background check and to release information required for a criminal background check investigation by a professional background screening organization or criminal background check service or registry.
- Pursuant to Tenn. Code Ann. § 68-11-256(b), currently an applicant for employment can consent to providing a fingerprint sample for purposes of a TBI background check or release information required for a criminal background check investigation by a professional background screening organization, but is not required to do both.
- The Bureau of TennCare currently requires home care organizations to perform background and registry checks for all staff that provide direct care; however, only one of the two methods is required.
- The cost of a TBI background check is estimated to be \$38; the cost of a private investigation background check is estimated to be \$30.
- The Bureau of TennCare estimates 2,125 nursing home facility staff and 250 home care organization staff will require a TBI background check, for a total of 2,375 (2,125 + 250). The recurring increase in state expenditures is estimated to be \$90,250 (2,375 background checks x \$38 per background check).
- In addition, a total of 2,375 staff members (2,125 in nursing homes and 250 in home care organizations) will require a private investigation background check. The recurring

increase in state expenditures is estimated to be \$71,250 (2,375 background checks x \$30 per background check).

- Medicaid expenditures receive a federal match rate estimated to be 64.983 percent. The state funding will be 35.017 percent.
- The total recurring expenditures, beginning in FY16-17, are estimated to be \$161,500 (\$90,250 + \$71,250). Of this amount, \$56,552 (\$161,500 x 0.35017 percent) will be state funds and \$104,948 (\$161,500 x 0.64983 percent) will be federal funds.
- The recurring increase in revenue to TBI as a result of performing additional background checks is estimated to be \$90,250.
- The TBI will need to hire one new Criminal History Examiner 2 position to handle the increase in background checks.
- The one-time increase in state expenditures associated with the additional position is estimated to be \$4,300 (\$1,600 computer setup and \$2,700 office furniture).
- The recurring increase in state expenditures associated with the additional position is estimated to be \$44,434 (\$30,396 salary + \$13,438 benefits + \$600 supplies).
- The TDAGC is tasked with reviewing the code related to the prosecution of elder abuse, neglect, and exploitation. This can be accomplished utilizing existing resources using electronic means without an increased appropriation or reduced reversion.
- The Division of Consumer Affairs is required to promote consumer education and currently holds an education fund in order to carry out this duty. The fund is comprised of monies from settlements obtained by the Division from violations of the Consumer Protection Act.
- The Division is already working towards developing the required report and it is assumed the report will not be expanded to include requirements that would require additional monies beyond the education fund.
- TCAD is federally mandated to provide education and outreach in regards to elder abuse. Any fiscal impact incurred in establishing the working group or coalitions can be accomplished using existing resources.
- The Department of Health estimates any fiscal impact incurred from amending existing home care and hospice rules and training staff to inspect for required documentation can be accomplished within existing resources.
- Establishment of the adult protective services working group within the Department of Human Resources will not result in a significant fiscal impact to the Department. The group's duties can be accomplished utilizing existing resources of the Department, without an increased appropriation or reduced reversion.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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